ARKANSAS SUPREME COURT

No. 08-533

	Opinion Delivered November 20, 2008
EDWARD LOVELESS Appellant v. LARRY NORRIS, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION, MIKE BEEBE, GOVERNOR, AND ROY AGEE, ARKANSAS DEPARTMENT OF CORRECTION KEEPER OF RECORDS Appellees	PRO SE MOTION FOR RECONSIDERATION OF DISMISSAL OF APPEAL AND MOTION TO DUPLICATE AT STATE EXPENSE [CIRCUIT COURT OF JEFFERSON COUNTY, CV 2008-27, HON. ROBERT H. WYATT, JR., JUDGE] MOTION FOR RECONSIDERATION DENIED; MOTION TO DUPLICATE AT STATE EXPENSE MOOT.

PER CURIAM

Appellant Edward Loveless is a prisoner incarcerated in the Arkansas Department of Correction. Appellant filed a pleading styled as a petition for declaratory judgment and writ of mandamus in Jefferson County Circuit Court. The trial court dismissed the petition and appellant lodged an appeal of the order in this court. Appellant previously brought a petition in which he sought a writ of certiorari to include a copy of the petition for declaratory judgment within the record and a number of motions concerning an extension of time to file his brief, appointment of counsel, a stay of the appeal, and duplication of appellant's brief at public expense. We denied the petition for writ of certiorari and dismissed the appeal, holding the remaining motions moot. *Loveless v. Norris*, 08-533 (Ark. Sept. 25, 2008) (per curiam). Appellant now brings a motion for reconsideration and a motion for duplication at the State's expense.

In his motion for reconsideration, appellant reasserts his contention that his petition for declaratory relief and writ of mandamus, or a portion of it, was omitted from the record. He attaches a copy of a petition, bearing the same filing date as the petition that was included in the record, which contains further arguments on the issues identified in the petition that was contained in the record. Although appellant has now identified a document that was potentially omitted from the record, we have no need to issue a writ of certiorari to bring up the document. Even were the petition a part of the record as appellant alleges, the claims in it, as in the petition contained in the record, challenge appellant's convictions and are not appropriate for declaratory judgment and mandamus.

Appellant asserts that his claims are challenges to the constitutionality of statutes, and are therefore appropriate for declaratory relief. But, the statutes that are challenged are those statutes under which appellant was charged. The petition that appellant asserts should be included in the record contains allegations regarding the alleged modification of his sentence by Department of Correction officials, but his arguments in support of those claims involve only arguments that the judgments were not sufficient, that the charging statutes were too vague or otherwise unconstitutional, that he was placed in double jeopardy by the convictions, and that there were other procedural defects in the proceedings to convict him. While appellant attempts to frame these arguments as a request for a declaration that the Department of Correction has incorrectly applied limitations on his eligibility for parole, the arguments are ones that are appropriate for direct appeal or a postconviction proceeding, not declaratory judgment and mandamus. Appellant's arguments are essentially a collateral attack challenging the judgments against him. Such collateral attacks are not cognizable claims in a petition for declaratory judgment. *See Johnson v. State*, 340 Ark. 413,

12 S.W.3d 203 (2000) (per curiam).

Extraordinary relief is not a substitute for an appeal. *Dean v. Williams*, 339 Ark. 439, 6 S.W.3d 89 (1999); *Gran v. Hale*, 294 Ark. 563, 745 S.W.2d 129 (1988). Nor, as stated in our previous opinion, is declaratory judgment a substitute for postconviction relief through a petition under Criminal Procedure Rule 37.1. Even were we to consider the arguments raised in the new document, despite labeling the petition as one for declaratory judgment, appellant sought to attack his judgment through the petition, and the petition must therefore be considered pursuant to Rule 37.1. *See State v. Wilmoth*, 369 Ark. 346, 350-351, 255 S.W.3d 419, 422 (2007) (citing *Bailey v. State*, 312 Ark. 180, 182, 848 S.W.2d 391, 392 (1993) (per curiam)). Consideration of the petition appellant proposes to include within the record would not provide reason to reconsider that conclusion.

Appellant also seeks to clarify his intentions as to the other motions previously submitted, but because we do not reconsider the holding to dismiss the appeal, there is, once again, no need to consider the remaining motions. Appellant has stated no valid reason to revisit our previous decision. We therefore deny his motion for reconsideration. The motion to duplicate at the State's expense is moot.

Motion for reconsideration of dismissal of appeal denied; motion to duplicate at State expense moot.